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### **DPS GUIDELINES FOR EVALUTING CRIMINAL OFFENDER RECORD INFORMATION (CORI) REPORTS FOR THE LICENSURE OF OWNERS OF AMUSEMENT DEVICES**

**Effective September 9, 2005**

#### **I. Licensing Procedure**

Under regulations recently promulgated by the Department of Public Safety (the Department), all individuals (applicants) seeking a license to operate amusement devices after January 1, 2006, will be required to consent to a criminal background check as a condition for licensure. Each applicant shall provide the Department with a CORI Request Form and a photocopy of a government-issued identification bearing a photograph of the applicant with the application for a license to operate.

After the Department has received the inquiry report from the CHSB, the Department will closely compare the report with the information on the CORI Request Form and the photocopy of the government-issued identification to ensure the record relates to the applicant. Upon the Department's satisfaction that the identifying information on the CHSB report is accurate as it relates to an applicant, the report will be utilized by the Department to determine the applicant's suitability for licensure.

#### **II. Categories of licensure qualification based on CORI Reports**

The Department has adopted three major categories of licensure qualification based on the information contained in a CORI report: no report, discretionary disqualification, and presumptive disqualification. The categories are based on offenses listed in Tables A-C, as appended to this document. Offenses which are the most serious are listed in Table A. For the purposes of evaluating Criminal Offender Record Information, the following terms and definitions shall apply:

**No Record.** A finding of "no record" indicates that the applicant has no record of offenses processed through the Massachusetts court system, therefore the applicant is suitable for licensure, barring other reasons for an adverse decision.

Discretionary Disqualification. An applicant may be initially ineligible for licensure based upon a conviction or pending charge for any of the crimes listed in Tables B or C unless the Department is convinced after consideration of mitigating factors that the applicant should be licensed.

Presumptive Disqualification. An applicant shall be ineligible for licensure based upon a conviction or pending charge for any of the crimes listed in Table A. The individual applicant shall remain presumptively and permanently disqualified for licensure except where the applicant is able to rebut the presumption of ineligibility. Ineligibility based upon a Table A offense may be challenged *only* by submitting clear and convincing evidence that the applicant is not likely to pose a risk of harm to children or vulnerable parties. Clear and convincing evidence of the applicant's appropriateness is an unequivocal statement(s) that the applicant poses no risk of harm, submitted by the applicant's probation officer, the prosecuting district attorney, or the judge that heard the Table A offense charge.

### **1. Presumptive Disqualification- Table A Offenses**

Applicants with a presumptive disqualification based upon a conviction for an offense within Table A shall be deemed unsuitable for licensure and shall be immediately notified of the Department's determination based upon the inquiry. The Department will provide copies of both the report and the CHSB's *Information Concerning the Process in Correcting a Criminal Record*. Applicants may rebut evidence of the presumptive disqualification by submitting a letter of reference from one of the following individuals:

- a. the current probation officer;
- b. the district attorney responsible for prosecution of the disqualifying offense; or
- c. the judge presiding over the trial of the disqualifying offense.

Or

- d. other relevant and mitigating documentation.

A presumptive disqualification will only be overturned where letters of reference clearly and convincingly state that the applicant is highly unlikely to re-offend or pose a danger to vulnerable parties.

### **2. Discretionary Disqualification- Table B and C Offenses**

Table B Offenses:

Applicants with a discretionary disqualification based upon a conviction for an offense within Table B may be deemed initially unsuitable for licensure. Applicants shall be notified of the Department's determination based upon the inquiry and shall be provided with copies of both the report and the CHSB's *Information Concerning the Process of Correcting Criminal Records*. Applicants may rebut evidence of a discretionary disqualification by submitting a letter of reference from one of the following individuals:

- a. the current probation officer;

- b. the district attorney responsible for prosecution of the offense for which the individual was found guilty;
- c. the judge presiding over the trial of the offense for which the individual was found guilty; or
- d. a treating mental health professional.

The Department will consider the letter of reference and other mitigating factors in making a determination of suitability. Other mitigating factors taken into consideration may include the following:

- 1) the time since conviction;
- 2) the age of the applicant at the time of the offense;
- 3) the nature of the work to be performed by the applicant;
- 4) the seriousness of the specific circumstances of the offense;
- 5) the number of offenses; and
- 6) any relevant evidence of rehabilitation or lack thereof.

#### Table C Offenses:

Applicants with a discretionary disqualification based upon a conviction for an offense within Table C may be deemed initially unsuitable for licensure pending further review of mitigating factors. Applicants shall be notified immediately of the Department's determination based upon the inquiry and shall be provided with copies of both the report and the CHSB's *Information Concerning the Process of Correcting Criminal Records*. Applicants may rebut evidence of a discretionary disqualification based on an offense included in Table C by submitting additional information which may include letters of reference from the current probation officer, prosecuting attorney, presiding judge and/or mental health professional, although such letters are not necessarily required. The Department will also consider the mitigating factors listed above.

The Department will consider all additional information received in a timely manner. The Department will notify the applicant of the licensure decision in a timely manner. If, after consideration of additional information, the Department determines that that an otherwise disqualified applicant is suitable for licensure, the Department will retain a written record of the basis for the decision.

Reports generated as the result of a criminal history inquiry will be appropriately secured for a period of three years from the date of request.

